

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOSEPH GIANNONE, SENIOR, t/a JOSEPH
GIANNONE PLUMBING & HEATING

(b) County of Residence of First Listed Plaintiff Delaware County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jeffrey L. Eichen, Esq., Drinker Biddle & Reath LLP, 222 Delaware
Avenue Suite 1410, Wilmington, DE 19801-1621, (302) 467-4236,
jeff.eichen@dbr.com

DEFENDANTS

JOSEPH GIANNONE, JUNIOR, t/a JOSEPH
GIANNONE PLUMBING • HEATING • AIR
CONDITIONING

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1125

Brief description of cause:

unfair competition, common law trademark infringement, misappropriation of trade secrets

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

FEB 25 2016

DATE

02/25/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JS 44 Reverse (Rev. 12/12)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 21 Cedar Meadow Lane, Media, Delaware County, Pennsylvania 19063 **16 0911**

Address of Defendant: 1211 Morton Avenue, Folsom, Delaware County, Pennsylvania 19033

Place of Accident, Incident or Transaction: JOSEPH GIANNONE PLUMBING & HEATING
(Use Reverse Side For Additional Space)
1323-25 South Juniper Street, Philadelphia, Pennsylvania 19147

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) Trademark

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, Jeffrey L. Eichen, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 2/25/2016

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

65464

Attorney I.D.#

FEB 25 2016

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 2/25/2016

Attorney-at-Law

65464

Attorney I.D.#

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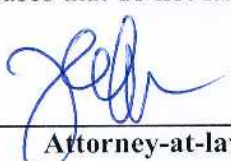
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

JOSEPH GIANNONE, SENIOR, t/a : CIVIL ACTION
 JOSEPH GIANNONE PLUMBING & HEATING: :
 v. :
 JOSEPH GIANNONE, JUNIOR, t/a JOSEPH :
 GIANNONE PLUMBING • HEATING • AIR CONDITIONING : NO. **16 0911**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>2/25/2016</u>		<u>Plaintiff</u>
Date	Attorney-at-law	Attorney for
<u>302-467-4236</u>	<u>302-467-4201</u>	<u>jeff.eichen@dbr.com</u>
Telephone	FAX Number	E-Mail Address

FEB 25 2016

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH GIANNONE, SENIOR, t/a JOSEPH
GIANNONE PLUMBING & HEATING,

Plaintiff,

v.

JOSEPH GIANNONE, JUNIOR, t/a JOSEPH
GIANNONE PLUMBING • HEATING • AIR
CONDITIONING,

Defendant.

16 0911

Civil Action No. _____

FILED

FEB 25 2016

MICHAEL E. KUNZ, Clerk
By RS Dep. Clerk

COMPLAINT AND JURY DEMAND

Plaintiff Joseph Giannone, Senior, t/a JOSEPH GIANNONE PLUMBING & HEATING (“Senior” or “Giannone Plumbing & Heating”) bring this civil action against defendant Joseph Giannone, Junior, t/a JOSEPH GIANNONE PLUMBING • HEATING • AIR CONDITIONING (“Junior” or “Giannone Air Conditioning”) and avers in support thereof as follows:

Parties, Jurisdiction and Venue

1. Plaintiff Joseph Giannone, Senior is an individual residing at 21 Cedar Meadow Lane, Media, Delaware County, Pennsylvania 19063. Senior is the sole proprietor of a plumbing and heating service business identified as JOSEPH GIANNONE PLUMBING & HEATING located at 1323-25 South Juniper Street, Philadelphia, Pennsylvania 19147.

2. On information and belief, defendant Joseph Giannone, Junior is an individual residing at 1211 Morton Avenue, Folsom, Delaware County, Pennsylvania 19033. On information and belief, Junior is the sole proprietor of a plumbing, heating and air conditioning

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service business identified as JOSEPH GIANNONE PLUMBING • HEATING • AIR CONDITIONING located at 1641 Delmar Drive, Folcroft, Delaware County, Pennsylvania 19032.

3. Pursuant to 28 U.S.C. §§ 1331, 1338 and 1367, this court has jurisdiction over this action in that (1) at least one of the claims stated herein arises under the Constitution, laws or treaties of the United States, (2) at least one of the claims stated herein arises under an act of Congress relating to trademarks and unfair competition, and (3) any claims stated herein over which original jurisdiction does not exist are so related to one or more claims over which original jurisdiction does exist that they form part of the same case or controversy under Article III of the United States Constitution.

4. Pursuant to 28 U.S.C. § 1391, venue for this action is properly placed in this district in that (1) the defendant resides in this judicial district, (2) a substantial part of the events or omissions giving rise to the claims stated herein occurred in this judicial district and (3) the defendant is subject to the court's personal jurisdiction in this judicial district.

Facts Common to All Counts

5. For several decades, and long prior to Junior's conduct described herein, Senior has owned and operated a well-known and highly regarded plumbing and heating service business in Philadelphia called JOSEPH GIANNONE PLUMBING & HEATING.

6. In connection with the marketing and promotion of its services, Senior has used several inherently distinctive trademarks, including the name of his business JOSEPH GIANNONE PLUMBING & HEATING, a pipe-and-wrench symbol and a blue-and-yellow color scheme (the "Giannone Senior Trademarks"), as shown below:



7. The Giannone Senior trademarks have become extremely well known in the minds of consumers in connection with the services offered by Senior, and through his long-standing use of these trademarks, Senior has developed strong goodwill and mental association between these trademarks and Giannone Plumbing & Heating.

8. Among other locations, Senior uses the Giannone Senior trademarks on advertising, promotional flyers and brochures, business cards, other business documents such as invoices and letters, and on company vehicles and uniforms. Examples of Senior's use of the Giannone Senior trademarks are attached hereto as Exhibit A.

9. Long prior to the acts of defendant complained of herein, and by virtue of Senior's extensive history of advertising and use of the Giannone Senior trademarks in connection with Giannone Plumbing & Heating, the Giannone Senior trademarks have become extremely well known, acquired additional distinctiveness, and have come to represent an extraordinarily valuable goodwill owned by Senior.

10. The Giannone Senior trademarks are valid, distinctive and enforceable marks within the protection of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

11. Junior founded his business, Giannone Air Conditioning, in 2009 after a brief period working as an employee in Senior's business. Initially, Junior confined his company's services to air conditioning repair and operated out of the same offices as Giannone Plumbing & Heating. During this period, Senior shared other resources to help establish Junior's air conditioning repair business, including telephone lines, shop space, repair trucks and employees.

12. In 2011, Giannone Air Conditioning left the offices of Giannone Plumbing & Heating at 1323-25 South Juniper Street, Philadelphia, and relocated to 1641 Delmar Drive, Folcroft.

13. At or around the time of this relocation, Junior also began using the Giannone Senior trademarks without permission from Senior. Junior's use of the Giannone Senior trademarks was knowing, intentional and with the express purpose of causing a likelihood of confusion among the relevant consumers as to the origin or sponsorship of Junior's services or connection between Junior's and Senior's businesses.

14. Among other things, Junior began using, without permission, the name, color scheme and pipe-and-wrench logo belonging to Senior, as shown in the photograph below:



Additional examples are shown in the attached Exhibit B.

15. At this time, Junior also began using, without permission, the address of Giannone Plumbing & Heating – 1323 S. Juniper Street, Philadelphia – on its advertising

materials, along with a telephone number that directed calls to Giannone Air Conditioning's offices in Folcroft.

16. As shown in the above photograph and in other materials, Junior also began to advertise his business as "Established 1926" – suggesting that Giannone Air Conditioning is somehow a continuation of or successor to a business that has existed over 90 years, when in fact Junior's business has existed approximately 7 years.

17. Upon information and belief, when Junior vacated the offices of Giannone Plumbing & Heating in 2011, Junior also copied and removed valuable confidential business information, including names, addresses and repair records for Senior's customers, in order for Junior to establish his competing business in Folcroft. Among other things, Junior has used Giannone Plumbing & Heating's confidential business information to contact Senior's customers and offer annual maintenance and other repair work. Customers who are satisfied with Giannone Plumbing & Heating's past services are thereby misled into hiring what they believe is the same business—operating under a nearly identical name, logo and color scheme.

18. Junior's conduct in appropriating and using the Giannone Senior trademarks and certain valuable confidential business information belonging to Giannone Plumbing & Heating has caused, and continues to cause substantial and continuing injury to Senior, including lost profits, lost revenues, lost good will and other injury not compensable through the payment of money damages.

19. Junior's conduct in appropriating and using the Giannone Senior trademarks and certain valuable confidential business information belonging to Giannone Plumbing & Heating has been knowing, intentional and in bad faith.

Count 1—Unfair Competition under Section 43(a) of the Lanham Act

20. Senior repeats all the allegations set forth above.

21. Junior's actions constitute unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

22. Junior's actions are likely to cause confusion and deception in that consumers are likely to believe that the services sold by Junior emanate from or are licensed, sponsored, authorized, or approved by Senior, or are in some other way associated with Giannone Plumbing & Heating.

23. The foregoing acts of unfair competition have been and continue to be deliberate, willful and wanton, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

24. By reason of Junior's actions, Giannone Plumbing & Heating has been severely injured in its business and property. The injury to Giannone Plumbing & Heating is and continues to be immediate and irreparable, and an award of monetary damages alone cannot fully compensate Giannone Plumbing & Heating for its injuries, and thus Giannone Plumbing & Heating lacks an adequate remedy at law.

Count 2—Common Law Trademark Infringement

25. Senior repeats all the allegations set forth above.

26. Junior's actions constitute common law trademark infringement under Pennsylvania state law.

27. Junior's actions are likely to cause confusion and deception in that consumers are likely to believe that the services sold by Junior emanate from or are licensed, sponsored,

authorized, or approved by Senior, or are in some other way associated with Giannone Plumbing & Heating.

28. The foregoing acts of unfair competition have been and continue to be deliberate, willful and wanton.

29. By reason of Junior's actions, Giannone Plumbing & Heating has been severely injured in its business and property. The injury to Giannone Plumbing & Heating is and continues to be immediate and irreparable, and an award of monetary damages alone cannot fully compensate Giannone Plumbing & Heating for its injuries, and thus Giannone Plumbing & Heating lacks an adequate remedy at law.

Count 3—Misappropriation of Trade Secrets

30. Senior repeats all the allegations set forth above.

31. Junior's actions constitute misappropriation of trade secrets in violation of the Pennsylvania Uniform Trade Secrets Act, 12 Pa. C.S. §§ 5301 et seq.

32. Through such misappropriation, Junior has caused substantial injury to Giannone Plumbing & Heating and unjustly enriched himself. The injury to Giannone Plumbing & Heating is and continues to be immediate and irreparable, and an award of monetary damages alone cannot fully compensate Giannone Plumbing & Heating for its injuries, and thus Giannone Plumbing & Heating lacks an adequate remedy at law.

Prayer for Relief

WHEREFORE, Plaintiff Joseph Giannone Senior requests this Court to enter the following relief in its favor and against defendant Joseph Giannone Junior:

- a. an injunction against continued use by Junior of any of the Giannone Senior trademarks or any other words, symbols, colors or designations confusingly similar thereto;
- b. an injunction against continued use by Junior of any confidential business documents, records or other information belonging to Giannone Plumbing & Hearing and misappropriated by Junior, or any other documents, records or information derived therefrom;
- c. damages adequate to compensate Senior for Junior's acts of trademark infringement, unfair competition and misappropriation of trade secrets, in an amount to be determined at trial;
- d. an accounting and disgorgement of profits derived by Junior from his acts of trademark infringement, unfair competition and misappropriation of trade secrets;
- e. trebling of damages and profits derived from Junior's acts of trademark infringement, unfair competition, and dilution pursuant to 15 U.S.C. § 1117;
- f. an assessment of interest on all damages, including prejudgment interest;
- g. reimbursement of all amounts paid by Senior for attorneys' fees, costs and expenses incurred in pursuing this action; and
- h. such other and further relief, including appropriate injunctive relief, as this Court may deem appropriate.

Jury Demand

Joseph Giannone Senior further requests a trial by jury on all issues triable by jury.

Date: February 25, 2016

DRINKER, BIDDLE & REATH LLP



Jeffrey L. Eichen
Pennsylvania Bar Identification No. 65464
222 Delaware Avenue, Suite 1410
Wilmington, DE 19801
(302) 467-4236 (direct)
(302) 467-4201 (facsimile)
jeff.eichen@dbi.com

Attorney for Plaintiff

84392009.1

EXHIBIT A

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Joseph Giannone Sr. has been a registered master plumber since 1976, loyally serving customers. All our work is satisfaction guaranteed and performed by licensed and trained professionals.

It has come to our attention that you may have just received a letter from Joseph Giannone Plumbing Heating and Air Conditioning telling you about the plumbing services they offer. This is not our business nor do we have any affiliation with this business. Please keep in mind that this business that sent you this letter has only been established for 5 years, not the 90 plus years as it is claiming.

WE ARE NOT AFFILIATED WITH: any business located on 1641 Delmar Drive Folcroft, Pa

AND, OR OTHERWISE KNOWN AS

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Joseph Giannone Plumbing, Heating and Air Conditioning

Joseph Giannone Plumbing, Heating & Air Conditioning

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We apologize for the confusion and are working hard to rectify the situation. Thank you for your continued loyalty and support. We would like to continue to service you. As a special thank you, we are offering you 20% off any plumbing service over \$100.00. Call April to schedule your appointment and please make sure to mention this letter to receive the discount.

Sincerely,

Joseph Giannone Sr.

EXHIBIT B

Whatever it takes.



SPRING 2014 VOLUME 14 ISSUE 1

Welcome HOME



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Climate Change: Indoors and Out

We hear a lot about what climate change is doing to the outdoors—from more severe storms to different temperatures and amounts of precipitation than we're used to. But what about indoors, where we spend so much of our time? Will climate change affect us there too? Yes—but there are ways to cope that can prevent these changes from taking a toll in your home. Here are a few expected changes, and what you can do to keep your family healthy.

More strong storms, more downed power lines, more generators running: Generators are fantastic, especially if you have small children or family members with health challenges. The danger

here is carbon monoxide poisoning, so be sure to run your generator in a sheltered outdoor location where there's plenty of ventilation.

Weather changes that promote more wildfires, dust storms and pollen: Outdoor pollutants get inside. Fortunately, proper ventilation and air-cleaning products such as the Bryant® Preferred™ Series Energy Recovery Ventilator and the Bryant Evolution® System Perfect Air Purifier can keep outdoor pollutants from impacting your family. If this equipment is not part of your current home comfort system, you may want to consider adding it.

Weather changes that promote more mold and mildew: If wetter than usual weather is making your home damp, or even flooding it, or if you recently insulated your home to reduce utility bills and now find it more humid indoors, you may need to re-think your ventilation and humidity control measures. Don't worry too much, though—there are good solutions available to the challenges of climate change. You can keep your family safe and healthy, and we are here to help.



**CLIMATE
CHANGE**

Check the mailbox on page 4 for more information on the topics in this issue of *Welcome Home*



Call to A Pro

Whether you have electronic, reusable or disposable air filters, each kind can become dirty and clogged without routine maintenance. But while you're checking the filter to make sure it's clean, keep in mind that this is just one part of an overall safety and efficiency inspection that should be conducted regularly. Replacing a filter that is disposable or cleaning one that is permanent are simple tasks that you can do yourself. But it takes a qualified service technician to conduct a complete inspection of your home comfort system.

Here are a few examples of what your technician may do:

Check the chimney, vents and flue to ensure there is no blockage. Operating a gas system that is clogged can cause a dangerous buildup of carbon monoxide in your home.

Check the high temperature limit control to prevent overheating of the system.

Check, clean or replace dirty filters.

Check, clean and oil the blower motor as needed.

Tune-up the equipment to achieve top performance and operational safety.

Check the air conditioner or heat pump refrigerant to make sure it will keep you cool during the warmer seasons.

Check the thermostat and other controls to make sure they are functioning properly.

You can do your part by putting routine filter maintenance on your To-Do List. But when it comes to a thorough inspection of your home comfort system, you can't do better than calling us! We can help you stay comfortable all year long.

Dessert

Strawberry Skillet Cake



- | | |
|--|-------------------------------|
| 1-1/2 cups flour | 1-1/2 tsp baking powder |
| pinch of salt | 1 stick of butter plus 2 Tbs. |
| 1/2 cup sugar | 2 large eggs |
| 2 tsp vanilla | 1/2 cup whole milk |
| 1/3 cup brown sugar | |
| 3 cups strawberries, cut in half or if really large, into bite-size pieces | |
| 10" cast iron skillet | |

Preheat the oven to 350° F. Mix together the flour, baking powder and salt. Using a mixer, beat together 6 Tbs butter and the white sugar. Add eggs and vanilla and beat until smooth. Add the flour and milk gradually. Beat until smooth. Melt the last 4 Tbs butter in the skillet. Add the brown sugar and stir to coat, then stir in the strawberries. Turn off the heat and arrange the berries evenly in the bottom of the skillet. Pour the batter over the berries. Bake 35-40 minutes until golden brown. Test for doneness with a toothpick. Don't forget to use a pot holder—the handle of your pan will be hot! Allow to cool in the pan for 10 minutes, then invert onto a serving plate, using a knife and spatula to loosen the cake in any sticky places. Serve warm or room temperature, topped with yogurt whipped cream or lemon sorbet.



Wood Furniture Repair

Has your wood furniture lost its luxurious glow? Suffered from scratches or water spots? Never fear! We have a few tips and tricks to get that furniture looking good as new.

► **Small scratches** can be hidden with a little shoe polish or a felt tip marker. Your local furniture store may stock markers that are specially made for the job.

► **Remove candle wax** by cooling it with an ice cube. When the wax is hard, scrape it off with a plastic spatula. Then polish the surface.

► **Furniture polish** will help protect the wood. Make your own polish by mixing 1 part lemon oil with 3 parts olive oil and use it once a week.

► **Have a professional buff** and polish your furniture once a year.



Welcome
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2014

Dry It, Buff It, Glue It

Restore Your Water-Damaged Furniture

Whether it's an antique or something new, your wood furniture represents a sizeable investment that you want to protect. When that furniture is damaged by water, it's worth some do-it-yourself effort to restore your furnishings.

STEP ONE—Dry the furniture as soon as possible. Put it in an area that has good air circulation and a constant temperature of about 70°F. If the area is too hot, the wood may dry too fast and crack. If it's too cold, it will dry too slowly and may become moldy.

STEP TWO—Remove white spots by rubbing them with a damp cotton cloth and a 50/50 mixture of regular toothpaste (not gel) and baking soda. Use a dry cotton cloth to buff.

STEP THREE—If you find black spots, remove them immediately. You should completely strip the finish and treat the wood with bleach to kill the mildew that has caused the black spots. Apply a new finish after you have eliminated the mildew.

STEP FOUR—Repair any buckled veneer by injecting a water-based glue between the wood and the veneer. Clamp the veneer to the base furniture and allow it to dry thoroughly.

STEP FIVE—If the previous steps don't do the trick, call for professional help. Your furniture will thank you.



Heads Up!

Beware of Overhead Power Lines

Do you know where the overhead power lines are located around your home? They may cross your yard or driveway, lead to the back of the house or to an out-building. For most of us, they become so commonplace that we don't even notice them anymore. That can be a big problem.

Every year, people are killed or seriously injured when they accidentally come in contact with power lines. It often happens when a homeowner is moving a ladder into position to paint or do some work on the outside of the house. Suddenly, a simple chore turns into a disaster.

Here are a few words of caution:

! Stay at least 10 feet away from power lines at all times.

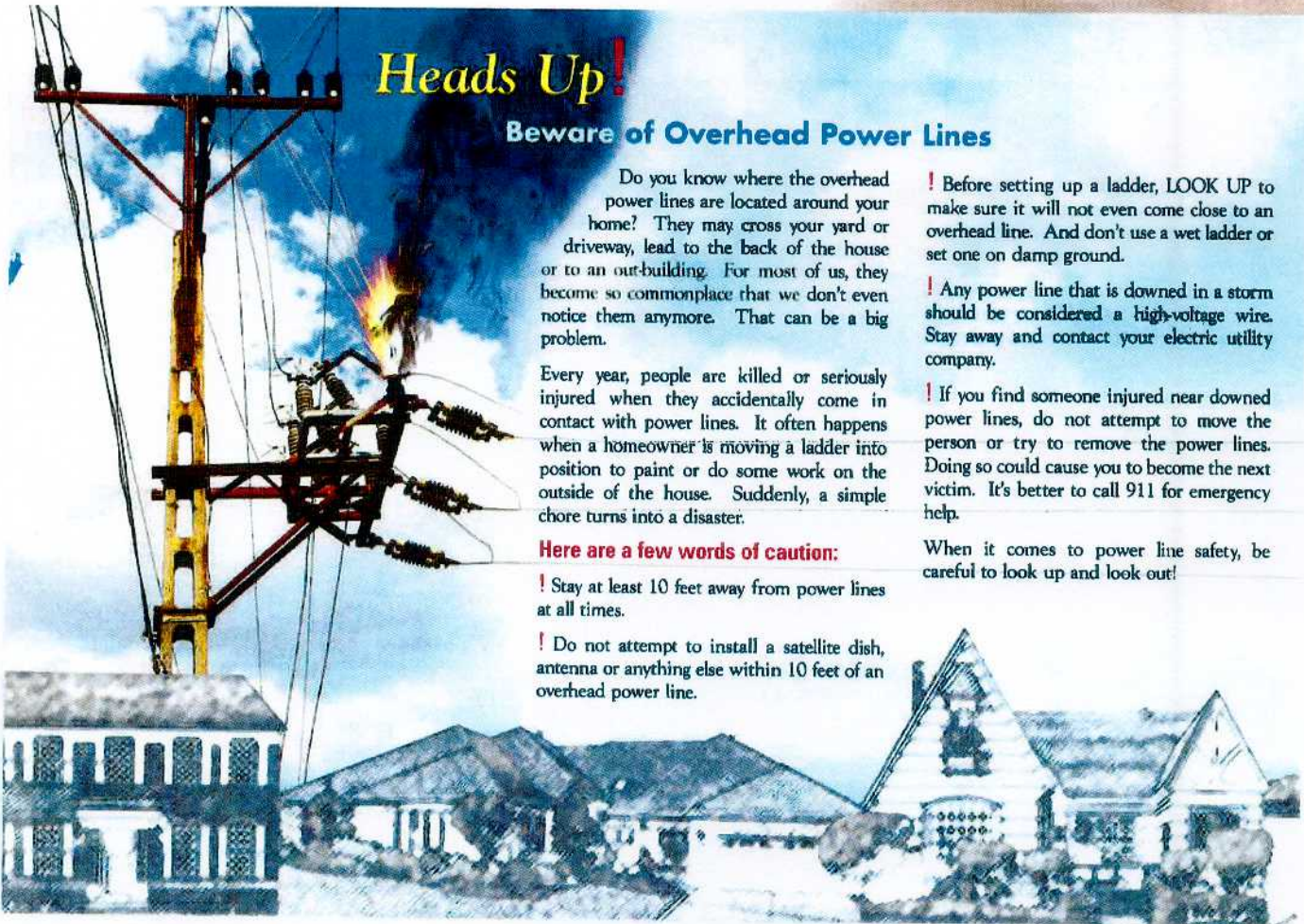
! Do not attempt to install a satellite dish, antenna or anything else within 10 feet of an overhead power line.

! Before setting up a ladder, LOOK UP to make sure it will not even come close to an overhead line. And don't use a wet ladder or set one on damp ground.

! Any power line that is downed in a storm should be considered a high-voltage wire. Stay away and contact your electric utility company.

! If you find someone injured near downed power lines, do not attempt to move the person or try to remove the power lines. Doing so could cause you to become the next victim. It's better to call 911 for emergency help.

When it comes to power line safety, be careful to look up and look out!





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Interested in more resources?

If you'd like more information about the subjects covered in this issue of *Welcome Home*, call us, or try the following sources:

Web Sites

Help kids learn more about electricity at the U.S.

Fun Facts & Helpful Hints



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N08004
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1025657

Evaluation Survey

Previously you used the services of the above company for your heating, cooling and/or plumbing needs. In their continuing effort to improve and offer additional services, C.P.I. Market Research Data has been retained to conduct this survey. It will only take a few minutes to complete but the answers you provide will help them evaluate their services. When you have completed the survey, please return it in the enclosed postage-paid envelope. Thank you for your participation.

C.P.I. Market Research Data

Please fill in your phone number:

Please fill in your e-mail address so you can be kept informed about new services:

1. Have you purchased any heating, cooling and / or plumbing systems, within the last 12 months?
1 ☐ yes
2 ☐ no
2. Have you had any service / maintenance work done to your heating, cooling and / or plumbing systems within the past 12 months?
1 ☐ yes
2 ☐ no
3. If yes to question 1 or 2, did you use the above company's services?
1 ☐ yes
2 ☐ no
4. If no to question 3, please write the reason(s) why you worked with a different company.

5. Do you know someone who could benefit from the heating, cooling and / or plumbing services of the above company?
1 ☐ yes
2 ☐ no
6. If yes to question 5, please fill in the referral's name and phone number below:
Referral's Name: _____
Referral's Phone Number: _____

QUESTIONS ARE CONTINUED ON REVERSE SIDE – ALSO USE FOR ADDITIONAL COMMENTS



7. Would you like information on any of the following?

- | | |
|---|---|
| 1 <input type="checkbox"/> service agreement | A <input type="checkbox"/> drain cleaning |
| 2 <input type="checkbox"/> system maintenance | B <input type="checkbox"/> sewer line video inspection |
| 3 <input type="checkbox"/> central air | C <input type="checkbox"/> sink / toilet / shower |
| 4 <input type="checkbox"/> furnace | D <input type="checkbox"/> generator |
| 5 <input type="checkbox"/> hot water boiler | E <input type="checkbox"/> humidifier |
| 6 <input type="checkbox"/> steam boiler | F <input type="checkbox"/> programmable thermostat |
| 7 <input type="checkbox"/> water heater | G <input type="checkbox"/> air purification system |
| 8 <input type="checkbox"/> sump pump | H <input type="checkbox"/> home water purification system |
| 9 <input type="checkbox"/> backup sump pump | I <input type="checkbox"/> other: _____ |

8. If you checked off any items in questions 7, please indicate your time frame of interest.

1 ☐ now or ☐ in _____ months

9. The person filling out this survey is:

- | | | | | | |
|--------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|--------------------------------|
| Male | 1 <input type="checkbox"/> 18-24 | 2 <input type="checkbox"/> 25-34 | 3 <input type="checkbox"/> 35-49 | 4 <input type="checkbox"/> 50-64 | 5 <input type="checkbox"/> 65+ |
| Female | 6 <input type="checkbox"/> 18-24 | 7 <input type="checkbox"/> 25-34 | 8 <input type="checkbox"/> 35-49 | 9 <input type="checkbox"/> 50-64 | A <input type="checkbox"/> 65+ |

Please list any suggestions you have that would help this company improve their services:

Additional comments or suggestions:

Place in the postage-paid return envelope provided and mail to CPI MARKET RESEARCH DATA:
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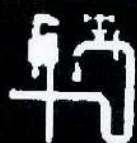


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